

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
APRIL 14, 2003
COUNCIL CHAMBERS
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:32 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky, Joan House and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; and Lisa Pope, City Clerk

FLAG SALUTE

Barbara Kearsley led the Pledge of Allegiance.

CLOSED SESSION REPORT

Public Comment on Closed Session Items

None.

City Attorney Hogin reported that the Council met in closed session at 5:00 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
2. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
3. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
4. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355
5. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641
Related cases (city named as a party in interest):
 - a. Rick Appel v. California Coastal Commission
Case No. SC074658

- b. Ralph Herzig v. California Coastal Commission
Case No. SS011382
- c. Land Use Preservation v. California Coastal Commission
Case No. SS011388
- d. Riverview Farm Associates v. California Coastal Commission
Case No. SS011383
- e. Brian Sweeney v. California Coastal Commission
Case No. SS011387
- f. Trancas-PCH v. California Coastal Commission
Case No. SC074640
- g. Tuna Ridge v. California Coastal Commission
Case No. SC011381
- h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
- 6. City of Malibu, et al. v. County of Ventura, et al. (Ahmanson Ranch)
Ventura County Superior Court Case No. CIV 216938
- 7. City of Malibu / Geffen v. Access for All / Coastal Commission et al
Los Angeles County Superior Court Case No. BC277034
- 8. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900
- 9. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. 00-10255-FMC(JWJx)
- 10. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
- 11. Malibu Township Council v. City of Malibu II (28-car garage)
Los Angeles County Superior Court Case No. BS079965
- 12. Marine Forest Society v. California Coastal Commission Case No. 00AS00567
(Sacramento Superior Court) (Amicus)
- 13. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
- 14. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BS081960
- 15. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
- 16. Sweeney et al v. California Coastal Commission (LCP/City is Real Party in Interest)
Los Angeles County Superior Court Case No. SS011387
- 17. Sweeney et al v. City of Malibu
Los Angeles County Superior Court Case No. SS011602
- 18. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
- 19. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
- 20. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794
- 21. City of Arcadia, et al. v. Regional Water Quality Board, et al.

Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753, BS080758, BS080791

22. Trancas PCH v. City of Malibu

Los Angeles County Superior Court Case No. SC075668

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

23. Number of Cases: 2

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

24. Property APN: 4458-021-005 and 4458-022-012

City Negotiator: City Manager Lichtig or designee

Property Negotiator: Tom Fitzpatrick

Under Negotiation: Price and terms of payment

25. Property APN: 4458-018-002, 018, 019

City Negotiator: City Manager Lichtig or designee

Property Negotiator: Roy E. Crummer

Under Negotiation: Price and terms of payment

26. Property APN: 4458-022-019 and 4458-021-003

City Negotiator: City Manager Lichtig or designee

Property Negotiator: Wave Property Inc.

Under Negotiation: Price and terms of payment

27. Property APN: 4472-027-901 & 902; 4472-028-901 & 902; 4473-005-901 & 902; 4473-006-900

Property Negotiator: City Manager Lichtig or designee

Buyer Negotiator: State of California / Santa Monica Mountains Conservancy

Under Negotiation: Price and terms of payment

28. Property located at: 23801 and 23833 Stuart Ranch Road

City Negotiator: City Manager Lichtig or designee

Property Negotiator: Yamaguchi Tokiye Trust

Under Negotiation: Price and terms of payment

City Attorney Hogin reported that the Council discussed several but not all items listed on the Closed Session agenda and took no reportable action.

APPROVAL OF AGENDA

MOTION

Mayor Pro Tem Kearsley moved and Councilmember Stern seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on April 4, 2003, with the amended agenda posted on April 10, 2003.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Proclamation to the Mountains Restoration Trust for their participation in the property transfer for the Trancas Canyon Park

Mayor Jennings presented a proclamation to the Mountains Restoration Trust. Steve Harris thanked the City and community of Malibu for supporting their organization.

B. Introduction of Assistant Fire Chief Reginald Lee

Mayor Jennings introduced Assistant Fire Chief Reginald Lee. Asst. Chief Lee stated he was pleased to be assigned to the City of Malibu and looked forward to working with the City.

C. Introduction of Sheriff Captain Tom Martin

Mayor Jennings introduced Sheriff Captain Tom Martin.

D. Presentations to Outgoing Mayor

Mayor Pro Tem Kearsley congratulated Mayor Jennings and presented a plaque from the City Council in recognition of his service as Mayor.

Mayor Pro Tem Kearsley read a letter from Congressman Waxman commending Mayor Jennings on his service as Mayor.

Susan Nissman, representing Supervisor Yaroslavsky, presented a commendation to Mayor Jennings for his service as City of Malibu Mayor 2002 – 2003.

E. Remarks by Outgoing Mayor

Mayor Jennings thanked the citizens of Malibu, the other members of the Council, and City staff. He expressed his appreciation to his family. He discussed accomplishments of the City over the past year.

F. Election of Mayor

MOTION Mayor Jennings moved and Councilmember Barovsky seconded a motion to nominate Mayor Pro Tem Kearsley. The motion carried unanimously.

G. Election of Mayor Pro Tem

MOTION Mayor Kearsley moved and Councilmember Jennings seconded a motion to nominate Councilmember Barovsky as Mayor Pro Tem. The motion carried unanimously.

H. Swearing in of new Mayor and Mayor Pro Tem

Father Kerze swore in Ken Kearsley as Mayor.

City Clerk Pope swore in Sharon Barovsky as Mayor Pro Tem.

I. Remarks by Incoming Mayor

Mayor Kearsley introduced members of the family. He thanked Councilmember Jennings for his work over the past year. He also thanked the other members of the City Council. He discussed his goals for his term as Mayor. He presented commendations to Linda Paterson, Leslie Schwarz, Gail Sumpter, and Marta Graham for their support of the 101st Airborne.

RECESS Mayor Kearsley called a recess at 7:25 p.m. The meeting reconvened at 7:32 p.m. with all Councilmembers present.

ITEM 2A. PUBLIC COMMENTS

John Mazza congratulated Mayor Kearsley and thanked Councilmember Jennings for his service as Mayor. He asked the status of abandonment of the easement on Portshead Road.

Jessica Stefan declined to comment.

Mary Frampton congratulated Mayor Kearsley on his appointment as Mayor. She discussed the life of Erna Segal.

Cristin Goetz was not present at the time of public comments.

Richard Carrigan commended Jeff Jennings on his service as Mayor.

Gayle Macleod deferred her time to Chris Benjamin.

Chris Benjamin discussed the Malibu Bay Company Development Agreement and expressed disappointment in the Council not giving the Planning Commission adequate time to digest the information.

Lloyd Ahern expressed his gratitude to Councilmember Jennings for his service as Mayor. He congratulated Mayor Kearsley and Mayor Pro Tem Barovsky. He requested the Council write a letter in opposition to AB947.

Francine Greene congratulated Mayor Kearsley and thanked Councilmember Jennings. She invited the Council and community to Chumash Day on April 27, 2003, at Bluffs Park.

Bob Purvey and Georgianna McBurney were not present at the time of public comments.

B. COUNCIL COMMENTS

Councilmember Stern stated AB947 would be before the Assembly on April 28, 2003.

Councilmember Jennings explained that AB947 was a place holder bill without provisions. He stated it had been recommended that the City defer action until the provisions were in place.

Norm Haynie congratulated Councilmember Jennings for his service as Mayor. He suggested the City go on record as suggesting AB947 be based on science.

City Attorney Hogin explained that the Public Works Department was working on abandonment of the Portshead Road easement.

Councilmember House suggested an item be placed on the April 28, 2003 agenda to allow Council the opportunity to take position on AB947.

CONSENSUS

By consensus, the Council directed staff to place an item regarding AB947 on the April 28, 2003 City Council agenda.

Councilmember Stern commended Councilmember Jennings for his service as Mayor.

Councilmember House echoed comments by Councilmember Stern.

Mayor Kearsley explained that the Council would be reviewing all material related to the Malibu Bay Company Development Agreement, including material the Planning Commission was unable to review.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.B.8. and 3.B.9. were pulled by the public.

MOTION

Mayor Pro Tem Barovsky moved and Councilmember Stern seconded a motion to approve Item Nos. 3.B.1., 3.B.2., 3.B.3., 3.B.4., 3.B.5., 3.B.6., 3.B.7., 3.B.10., and 3.B.11. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 21575 through 21725 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 281 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$841,674.42. ADP payroll voucher numbers 2491058 – 2491070 were issued in the amount of \$101,264.30 and ADP payroll voucher numbers 2744794 – 2744809 were issued in the amount of \$123,300.93 totaling \$224,565.23.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on January 13, 2003 relating to the Pacific (Trancas area) Fire

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

4. Landscape Maintenance Request for Proposal (RFP)

Staff recommendation: Approve RFP for Landscape Maintenance Services.

5. Memorandum of Understanding in Support of County wide use of theme for Parks and Recreation

Staff recommendation: Authorize the City Manager to execute a Memorandum of Understanding (MOU) with the County of Los Angeles and the California Parks and Recreation Society.

6. AB 1009; An Act to Amend Section 97 of the Streets and Highways Code and Section 627 of the Vehicle Code, Relating to Vehicles – a Measure to Control Traffic Speed and Improve Traffic Safety Along Pacific Coast Highway

Staff recommendation: Authorize a letter to be prepared in support of Assembly Bill 1009, a measure to control traffic speed and improve traffic safety along Pacific Coast Highway, for the Mayor's signature.

7. Approval of Minutes
Staff recommendation: Approve City Council meeting minutes for the Joint City Council / Planning Commission Public Workshop held on November 6, 2002 and the regular City Council meeting held on March 10, 2003.
10. Affinity Credit Card Proposal
Staff recommendation: Approve a contract with U.S. Bank for the development, and issuance of an affinity credit card in the name of City of Malibu, as the sponsor. The net revenues will be used for youth programs in the City of Malibu, as directed by the City Council.
11. US 101 Freeway Corridor Study and Recommended Improvements
Staff recommendation: Authorize support for improvements to US 101 Freeway Corridor which may have a positive impact on Malibu by decreasing commuter traffic through Malibu.

The following items were pulled from the Consent Calendar for individual consideration:

ITEM 3.B.8. Recommendation from the Bond Measure Advisory Committee to Engage Shilts Consulting to Complete a Mail Survey Regarding the Creation of a Benefit Assessment District

Recommendation: It is the recommendation of the Committee that Council 1) Authorize the City Manager to negotiate and execute an agreement with Shilts Consulting for the completion of a mail survey of Malibu residents regarding the creation of a benefit assessment district for the acquisition and development of Parks and Recreation facilities; and 2) Appropriate up to \$15,000 from the general fund for this purpose.

John Mazza suggested the survey be delayed until specific details were available.

City Manager Lichtig presented the staff report.

In response to Councilmember Jennings, City Manager Lichtig explained the proposed time frame for conducting the survey. Councilmember Jennings suggested authorizing the agreement but delaying implementation.

Councilmember House discussed the purpose of the survey. City Manager Lichtig stated the intent was to use the language proposed by the bond committee.

Councilmember Barovsky stated the committee was recommending approval of the consultant and the Council should accept the recommendation.

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to 1) Authorize the City Manager to negotiate and execute an agreement with Shilts Consulting for the completion of a mail survey of Malibu residents regarding the creation of a benefit assessment district for the acquisition and

development of Parks and Recreation facilities; and 2) Appropriate up to \$15,000 from the general fund for this purpose.

AMENDMENT

Mayor Kearsley moved to have the survey include questions regarding whether the public would support an assessment district versus sales tax which would cost up to \$18,000. Councilmember Barovsky and Councilmember Stern accepted the amendment.

The amended motion carried unanimously.

- ITEM 3.B.9. Amendments to the Consultant Contract for the Preparation of the Final Environmental Impact Report (EIR) for the Forge Lodge Bed and Breakfast
Staff recommendation: Approve Agreement Amendments in the aggregate amount of \$22,198.60 between Christopher A. Joseph and Associates (CAJA) and the City of Malibu for the preparation of the Final Environmental Impact Report for the Forge Lodge Bed and Breakfast.

John Harlow thanked staff for the accuracy of the report. He requested the money owed by Mr. Forge be divided into 2 payments.

City Manager Lichtig stated Mr. Forge had committed to make the final payment.

- MOTION Councilmember Jennings moved and Councilmember Stern seconded a motion to approve agreement amendments in the aggregate amount of \$22,198.60 between Christopher A. Joseph and Associates (CAJA) and the City of Malibu for the preparation of the Final Environmental Impact Report for the Forge Lodge Bed and Breakfast. The motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

None.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

- A. AB 1412: An Act to Add Chapter 2.66 (Commencing with Section 7286.27) to Part 1.7 of Division 2 of the Revenue and Taxation Code, Relating to Taxation

Staff recommendation: Authorize a letter to be prepared for the Mayor's signature in support of Assembly Bill 1412, a measure to allow City voters to approve an increase of the City's sales tax rate.

Councilmember Jennings explained that Assemblymember Pavley had requested the City support AB 1412. He stated the bill provided the City the opportunity to take a tax increase to the voters if it so desired.

MOTION Councilmember Jennings moved and Councilmember Stern seconded a motion to authorize a letter to be prepared for the Mayor's signature in support of Assembly Bill 1412, a measure to allow City voters to approve an increase of the City's sales tax rate. The motion carried unanimously.

ADJOURN At 8:00 p.m., Mayor Kearsley adjourned the meeting in memory of Erna Segal. The motion carried unanimously.

Approved and adopted by the City Council of the City of Malibu
on May 27, 2003.

KENNETH KEARSLEY, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)